

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BLACKWATER SECURITY CONSULTING,
LLC, a Delaware Limited Liability Company; and
BLACKWATER LODGE AND TRAINING
CENTER, INC., a Delaware Corporation,

Plaintiffs,

v.

WESTCHESTER SURPLUS LINES INSURANCE
COMPANY, a Georgia Corporation; EVANSTON
INSURANCE COMPANY, an Illinois Corporation;
FIDELITY AND CASUALTY COMPANY OF
NEW YORK, a South Carolina Corporation; and
LIBERTY INSURANCE UNDERWRITERS, a
Massachusetts Corporation,

Defendants.

CIVIL ACTION NO. 05-CV-06020

**LIBERTY INTERNATIONAL UNDERWRITERS'
MOTION FOR SUMMARY JUDGMENT**

Defendant, Liberty International Underwriters ("Liberty") improperly named as Liberty Insurance Underwriters, by and through its attorneys, Post & Schell, P.C., respectfully moves this Court for summary judgment pursuant to Federal Rule of Civil Procedure 56(c) that Plaintiffs, Blackwater Security Consulting, LLC and Blackwater Lodge and Training Center, Inc. ("Blackwater") are not entitled to insurance coverage under Liberty Insurance Policy LQ1-B71-200233-014 ("Liberty Policy"). Liberty incorporates and relies on the Declaration of John C. Sullivan in support thereof and states as follows:

As set forth in the Brief in support of Liberty's Motion, there are no genuine issues of material fact and Liberty is entitled to judgment as a matter of law that Blackwater is not entitled

to insurance coverage under the Liberty Policy War/Terrorism Exclusion Endorsement, which excludes any coverage for “bodily injury [or] personal injury . . . related in any way, directly or indirectly, to war and military action.” “[W]ar and military action” is defined in the Liberty Policy as “undeclared,” “warlike action by military force,” “insurrection,” “rebellion” or “revolution.” Clearly, the Decedents in the underlying action, *Nordan v. Blackwater Security Consulting, LLC*, Dkt. No. 05 CV 000173, Superior Court of North Carolina, Wake County, died directly as a result of the Iraq War.

Massachusetts and North Carolina courts, the potentially applicable jurisdictions governing the Liberty Policy, recognize both the validity and unambiguity of war risk exclusions. Likewise, both jurisdictions have held that decedents died in “war” while the United States was engaged in combat with another nation, and the decedents were killed by military forces.

There is no dispute that the Decedents perished in combat, during war, and Blackwater is not entitled to insurance coverage pursuant to the War/Terrorism Exclusion Endorsement in the Liberty Policy.

WHEREFORE, Defendant Liberty International Underwriters respectfully requests this Honorable Court to enter summary judgment Blackwater Security Consulting, LLC and Blackwater Lodge and Training Center, Inc. are not entitled to insurance coverage under the War/Terrorism Exclusion Endorsement contained in Insurance Policy LQ1-B71-200233-014 and issue an Order that Liberty International Underwriters has no obligation under the Liberty International Underwriters' Policy to pay any judgment or settlement on behalf of its insureds in connection with the injuries and deaths alleged in *Nordan v. Blackwater Security Consulting, LLC*, Dkt. No. 05 CV 000173, Superior Court of North Carolina, Wake County.

Dated: July 27, 2007

POST & SCHELL, P.C.

By: /s/ John C. Sullivan
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